

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION

MARILYN CASTILLO, MELANIE MELENDEZ, §
BRITTANY ARMENDARIZ, and §
ESMERALDA ABALOS, §
Plaintiffs, §
§
v. §
§
HANDS OF COMPASSION HOME CARE, LLC, §
Defendant. §

CASE NO. 7:23-CV-00168

**PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION FOR EXTENSION OF TIME
TO COMPLETE DISCOVERY AND FILE DISPOSITIVE MOTIONS**

Plaintiffs Marilyn Castillo, Melanie Melendez, Brittany Armendariz, and Esmeralda Abalos (the “Plaintiffs”) respectfully request that the Court deny Defendant’s Motion for Extension of Time to Complete Discovery and File Dispositive Motions, and show the Court as follows:

I. FACTUAL BACKGROUND

Plaintiffs filed this case on October 30, 2023. On April 1, 2024 the Court entered a Scheduling Order [Doc. 37] and an Order Setting Jury Selection-Trial [Doc. 39] on February 3, 2025. At Defendant’s request, the parties previously agreed to file (and the Court granted) a joint motion for extension of the discovery and dispositive motion deadlines, with the new deadlines being September 26, 2024 and October 28, 2024, respectively. *See* Doc. 49 and corresponding July 26, 2024, Text Order.

Defendant’s purported reasoning for the previous joint motion for extension of the discovery deadline and dispositive motion deadline was to give the parties a chance to complete written discovery and engage in settlement negotiations. As further reason, Defendant also indicated that it was interested in engaging in settlement negotiations rather than incurring

additional litigation expenses associated with taking and defending depositions. Specifically, Defendant requested that Plaintiffs send another updated settlement demand, which Plaintiffs did. Defendant subsequently rejected Plaintiffs' updated settlement demand and refused to further engage in any manner of good faith settlement negotiations. *See Appendix in Support of Plaintiffs' Response to Defendant's Motion for Extension of Time to Complete Discovery and File Dispositive Motions, Ex. 1, App. 1-8 (correspondence between counsel).*

Now, with the already extended discovery deadline having run, Defendant decided that it no longer wishes to engage in settlement negotiations, wants to add more time back on the clock to take depositions, and also extend the unexpired dispositive motion deadline even further.

II. ARGUMENT AND AUTHORITIES

A scheduling order "may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). "The good cause standard requires the party seeking relief to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension." *S & W Enters., L.L.C. v. SouthTrust Bank of ALA.*, NA, 315 F.3d 533, 535 (5th Cir. 2003).

Defendant's current motion fails to show good cause as to why the existing deadlines for discovery and dispositive motions should be extended, other than it "intends to re-evaluate its settlement position after taking plaintiffs' depositions." This is not good cause, nor does it show diligence by Defendant, and the Court should not be persuaded by Defendant yet again continuing to feign settlement interest as grounds for another extension.

Most importantly, Plaintiffs will certainly be prejudiced by another extension that will give Defendant more time and potentially more evidence to utilize in a dispositive motion against Plaintiffs. If Defendant wishes to file a dispositive motion, it must attempt to do so with the evidence that it currently has before the existing October 28, 2024 deadline.

III. CONCLUSION

For these reasons, Plaintiffs request that the Court deny Defendant's motion and maintain the existing scheduling order deadlines.

Respectfully submitted,

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